



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

PUBLIC NOTICE

Project: Elmhurst Creek Sediment Removal

NUMBER: 29716S

DATE: January 26, 2007

RESPONSE REQUIRED BY: February 26, 2007

PROJECT MANAGER: Robert Kirby

PHONE: 415-977-8446

Email: Robert.J.Kirby@spd02.usace.army.mil

1. INTRODUCTION: Northgate Environmental Inc. has applied on behalf of Mr. Richard Hamilton of Monterey Mechanical Inc. for a Department of the Army permit to remove sediment and regrade a portion of Elmhurst Creek, tributary to San Francisco Bay, in Oakland, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act (33 U.S.C. 403).

2. PROPOSED PROJECT:

Project Site: The proposed work would occur along a 550 linear foot section of Elmhurst Creek adjacent to businesses located at 7825, 8255 and 8261 San Leandro Street, Oakland, Alameda County, California. The project site is highly urbanized and is bordered on the north by SF-Oakland Truck Auto Plaza, on the east by Monterey Mechanical, on the south by Bay Area Truck Driving School and on the west by railroad tracks. The creek is approximately 25 feet wide in this area. The subject area is tidally influenced.

Project Description: The applicant proposes to excavate 2,000 cubic yards of material from a 550 linear foot section of Elmhurst Creek (0.5 acres) and re-grade the creek to create a uniform cross-section with the purpose of facilitating water conveyance. The applicant has proposed dewatering the area with cofferdams. The applicant proposes to dispose of excavated material at a Class II landfill.

Purpose and Need: The applicant has stated that silt has been deposited on the bottom and sides of the creek raising the creek bottom and sides by 2 to 4 feet. The applicant has stated that due to this constriction upland properties are experiencing significant flooding on an increasingly frequent basis. The basic purpose of this project is to improve the carrying capacity of the creek. The overall purpose is to improve carrying capacity and reduce flooding of properties adjacent to Elmhurst Creek, Oakland California.

Impacts: This stretch of Elmhurst Creek is in a highly urbanized setting. The applicant has stated that other adjacent portions of the creek have been channelized to convey flood flows. The applicant has stated that the subject area has been degraded by trash and algal blooms in areas of open water. Sediment removal and regrading will affect hydrophytic vegetation within the creek which includes cattail, (*Typha spp.*), tule (*Schoenoplectus acutus var. occidentalis*), flatsedge (*Cyperus eragrostis*) bulrush (*Schoenoplectus robustus*), seaside arrowgrass (*Triglochin maritima*), etc.

Mitigation: The applicant has not proposed mitigation at this time. The amount and type of mitigation required will be determined after coordination with appropriate natural resource agencies. Compensation for temporal loss and risk will be a required component of any Corps mitigation.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. The project area is highly urbanized. The applicant has stated that this subject area is degraded and adjacent stretches of Elmhurst Creek have been channelized to maximize flood conveyance. A biological survey conducted by EIP Associates of the subject area concluded that it is unlikely that the project site provides suitable habitat for federally listed species. The Corps has determined that the project will have no affect on federally listed species or critical habitat.

Magnuson-Stevens Fisheries Conservation and Management Act: The NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. There are no EFH concerns with this proposed project.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water dependent.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent with the State's Coastal Zone Management Program, if applicable. This certification, if applicable will be required prior to permit issuance.

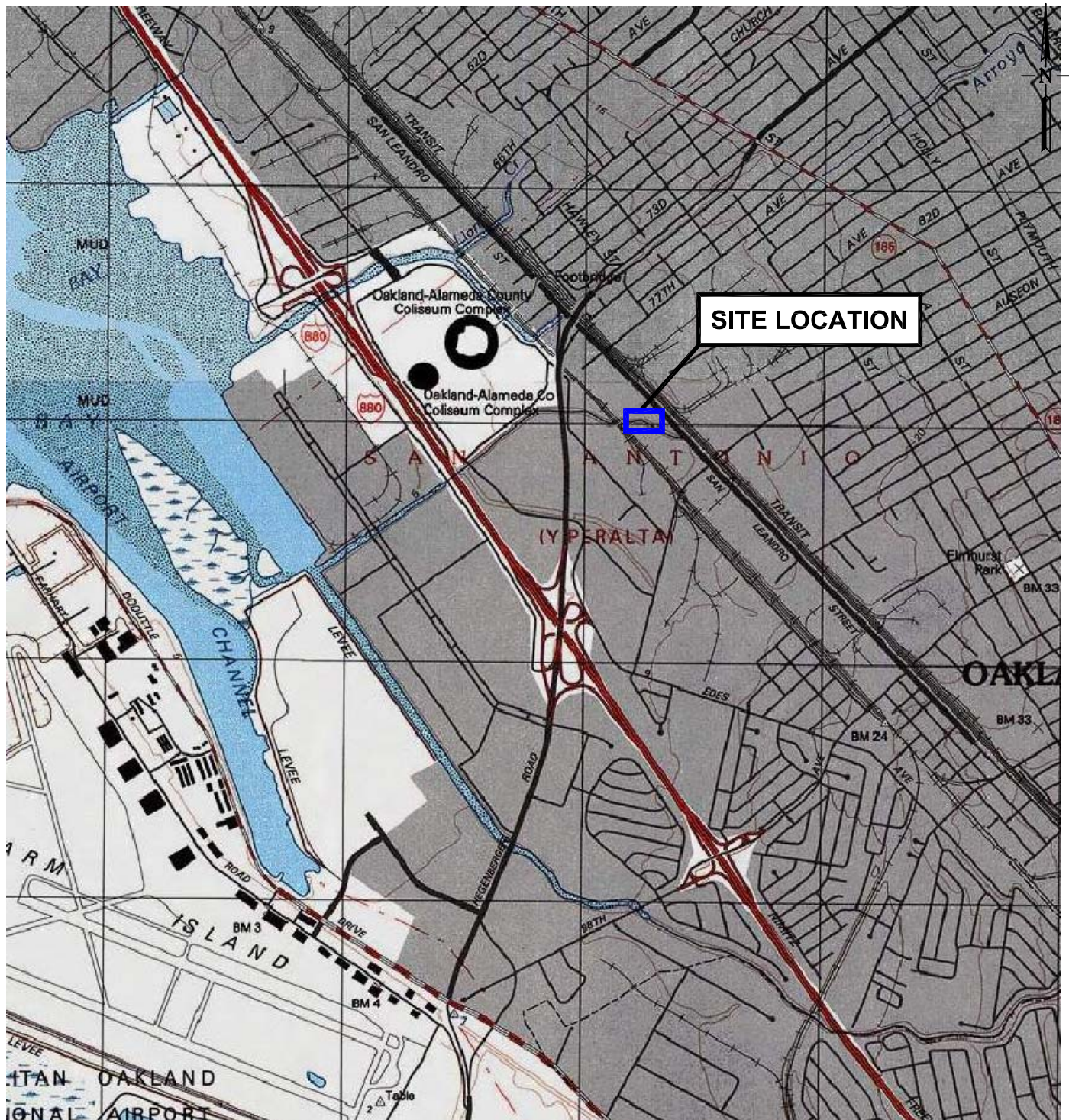
National Historic Preservation Act of 1966 (NHPA): No historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic

Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Robert Kirby of our office at telephone 415-977-8446 or E-mail: Robert.j.Kirby@spd02.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.



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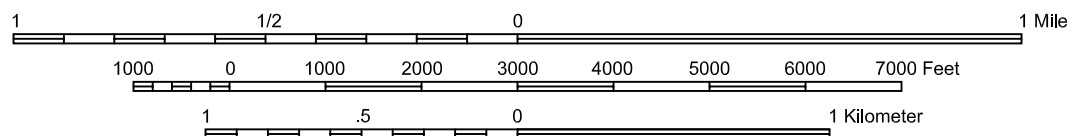


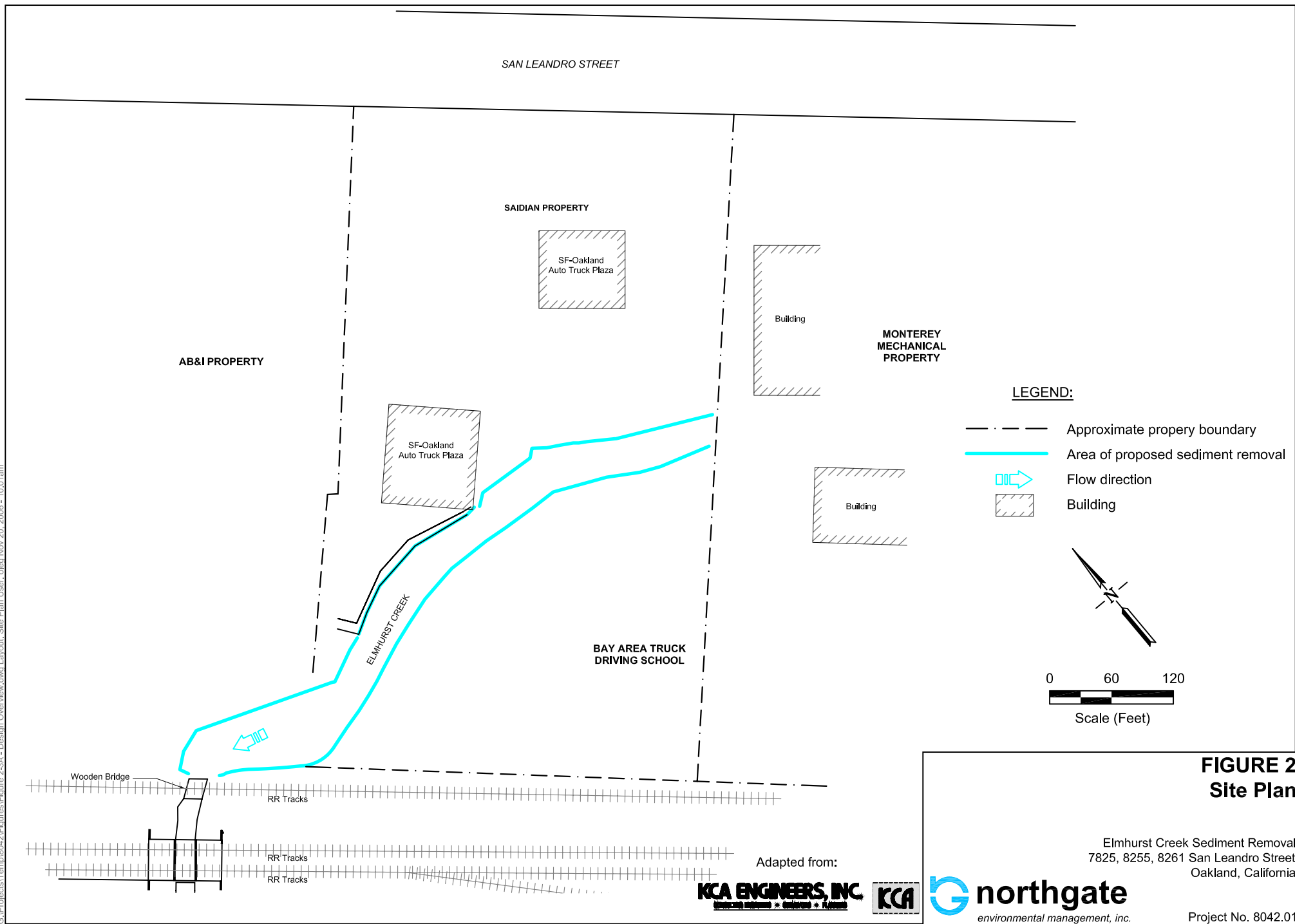
FIGURE 1
Site Location Map

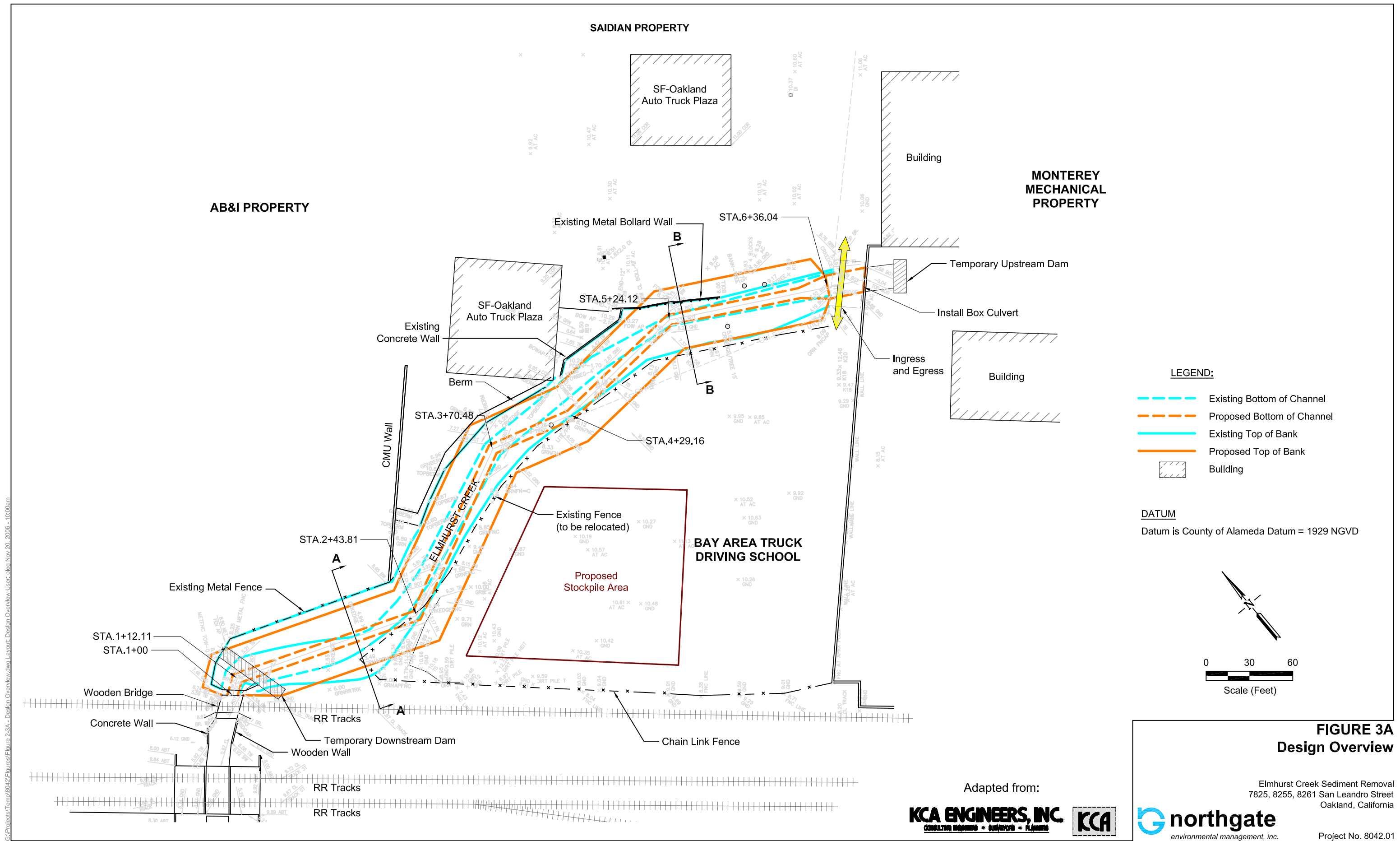
Elmhurst Creek Sediment Removal
7825, 8255, 8261 San Leandro Street
Oakland, California



Source: National Geographic USGS TOPO! 2000

Project No. 8042.01





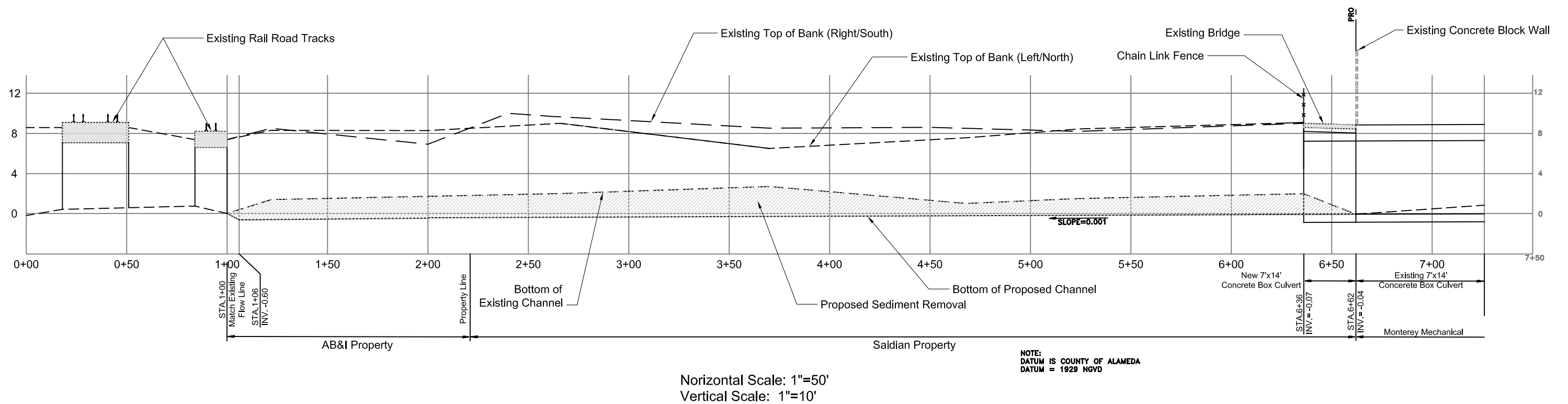
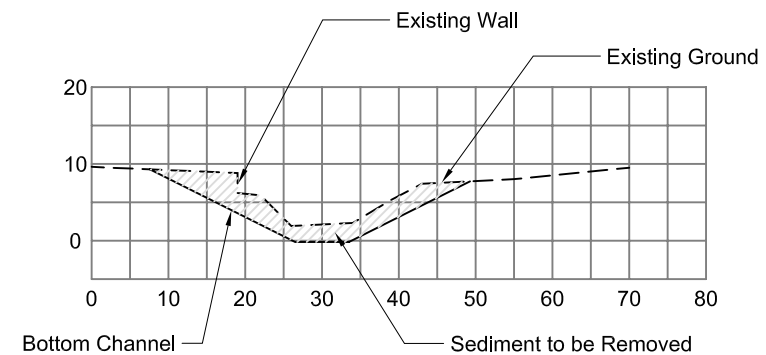
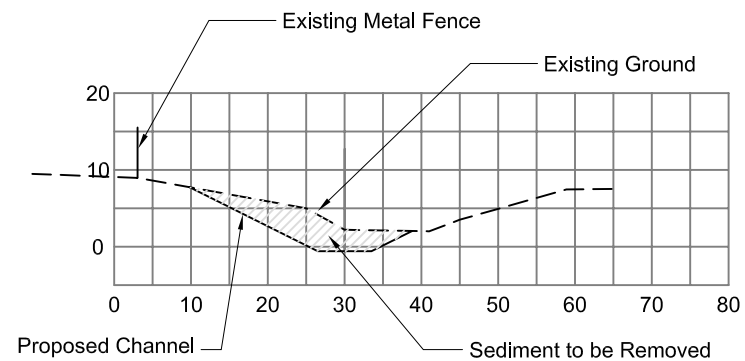


FIGURE 3B
Design Cross Sections

Adapted from:

KCA ENGINEERS, INC.
CONSULTING ENGINEERS • SURVEYORS • PLANNERS



northgate
environmental management, inc.

Elmhurst Creek Sediment Removal
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Oakland, California

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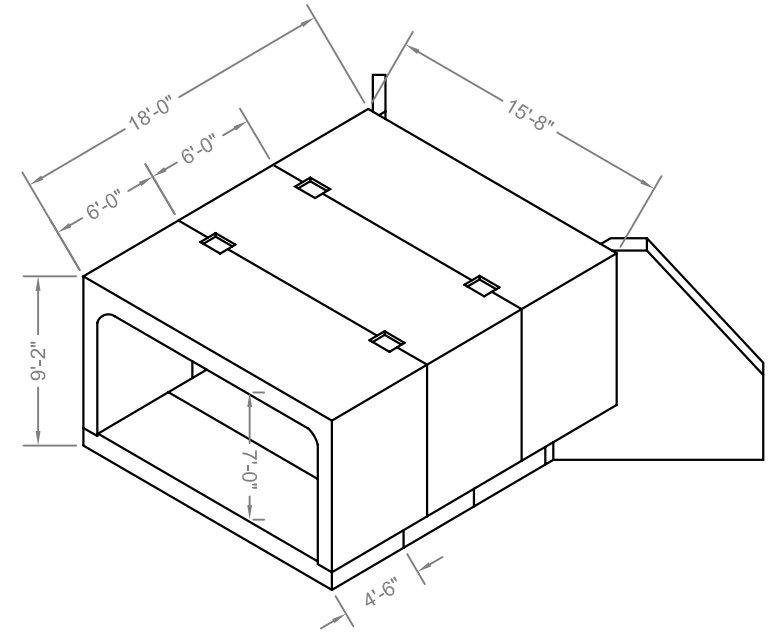
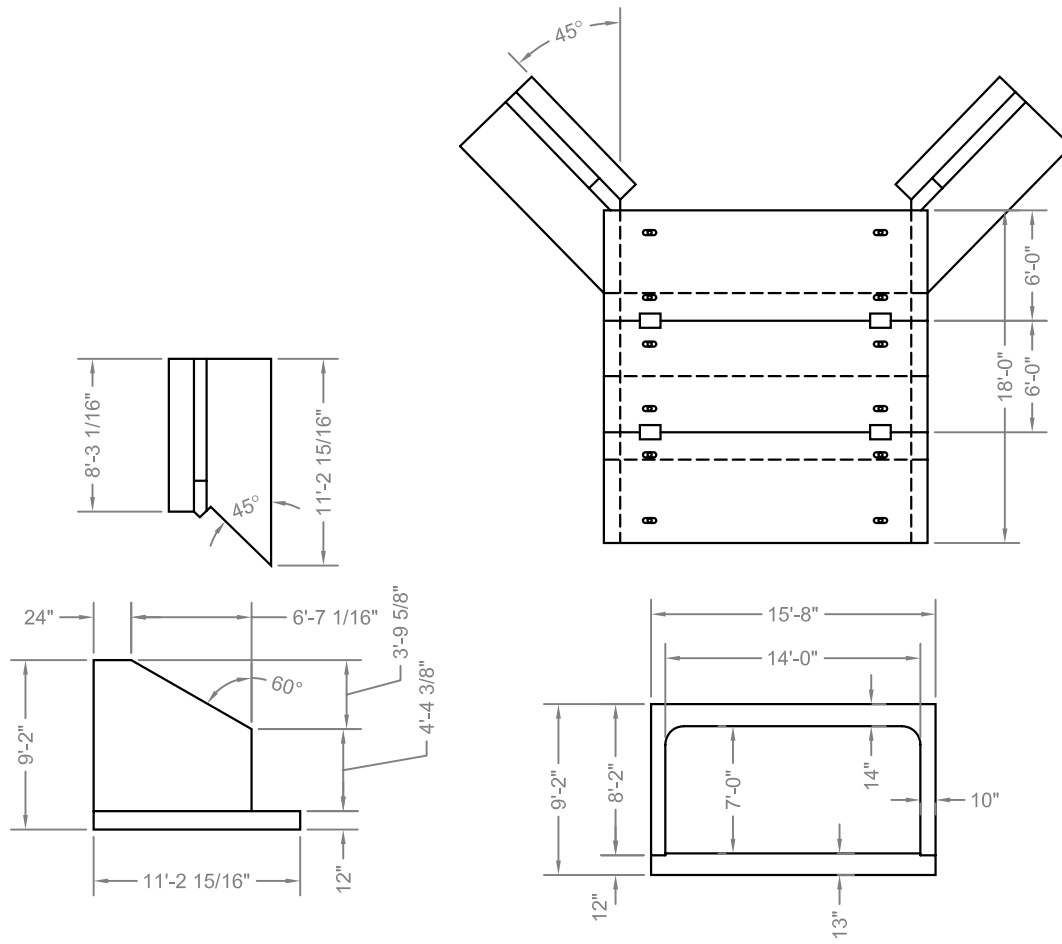


FIGURE 4
Box Culvert Details

Adapted from:



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